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May 3, 2022

Hon. Thomas J. McAvoy
Senior U.S. District Judge
Federal Building and U.S. Courthouse
15 Henry Street
Binghamton, New York 13901

Re: United States v. Jacob Delaney
1:20-CR-335 (TJM)

Dear Judge McAvoy:

This letter is respectfully submitted in response to the government's motion (Dkt. 98) for an order sealing Agent Diggons November 18, 2019 FD-1057 memorandum ("the memorandum"). We oppose the government's application. In its motion, the government contends that memorandum "contains law enforcement sensitive information." The target site ceased operating in June 2019, nearly three years ago. We have no reason to believe that the public filing of the memorandum could seriously jeopardize any continuing investigations.

"A court's inherent power to supervise its own records does not include the power to undermine the source of its own legitimacy. Transparency is the *sine qua non* of the common-law tradition we have inherited; without it, the snakes come." *In re Grand Jury Subpoena to Google Inc.*, No. 17-MC-2875 (JO), 2017 U.S. Dist. LEXIS 177737, at *12 (E.D.N.Y. Oct. 26, 2017)(rejecting government application for indefinite sealing) quoting Stephen Wm. Smith, *Kudzu in the Courthouse: Judgments Made in the Shade*, 3 Fed. Cts. L. Rev. 177, 215 (2009).

Very truly yours,

/s/ Richard D. Willstatter
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